

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF LITEL TELE-)	
COMMUNICATIONS CORPORATION)	
FOR AUTHORITY TO GUARANTEE)	
\$135 MILLION IN SENIOR SECURED)	
NOTES ISSUED BY ITS PARENT,)	CASE NO.
LCI COMMUNICATIONS, INC. AND)	89-308
FOR ADDITIONAL AUTHORITY CON-)	
TINGENT UPON LCI COMMUNICATIONS)	
INC.'S ACQUISITION OF PHOENIX)	
NETWORK CORPORATION)	

O R D E R

This matter arising upon joint petition of LCI Communications, Inc. ("LCI") and LiTel Telecommunications Corporation ("LiTel") filed October 23, 1989 pursuant to 807 KAR 5:001, Section 7, for confidential protection of certain financial documents filed in support of petitioners' application, and it appearing to this Commission as follows:

LCI and LiTel seek to protect as confidential the term sheet for the term loan between LCI and Mellon Bank, N.A. and Creditanstalt (Exhibit F to the application); the \$20 million credit line issued through Mellon Bank, N.A. and Creditanstalt (Exhibit F to the application); a pro forma income statement (Exhibit G to the application) and balance sheet (Exhibit G-2 to the application) for LCI and LiTel as they presently exist; pro forma income statement (Exhibit H-1 to the application) and balance sheet (Exhibit H-2 to the application) for LCI, LiTel,

Afford-A-Call and the Charter entities; income statement and balance sheet for LiTel for the eight months ending August 31, 1989 (Exhibits I-1 and I-2 to the application); consolidated income statement and balance sheet for Charter Management Company, Inc., Phoenix Network Corporation, and Charter Network, L.P. for eight months ending August 31, 1989 (Exhibits J-1 and J-2 to the application); and the total book value of Charter's assets, less accumulated provision for depreciation and amortization as of July 31, 1989 (Exhibit K to the application). As grounds for the motion LCI and LiTel allege that disclosure of the information sought to be protected is likely to result in substantial competitive injury. The information sought to be protected is not known outside the business of LiTel and LCI and has not been disclosed generally within their businesses. LiTel and LCI have expended substantial sums of money in developing the information and it cannot be easily acquired or duplicated by other means.

807 KAR 5:001, Section 7, protects information as confidential only when it is established that disclosure will result in competitive injury to the party from whom the information is obtained. To satisfy this test the party claiming confidentiality must demonstrate actual competition and a likelihood of substantial competitive injury if the information is disclosed. The petition filed by LiTel and LCI does neither.

Although the petition alleges that disclosure of the information will result in competitive injury, the petition does not identify the competitors who will benefit from the information

nor does it state what injury is likely to result if the competitors obtain the information. Therefore the petition cannot be sustained.

This Commission being otherwise sufficiently advised,

IT IS ORDERED that:

1. The petition by LCI and LiTel for confidential protection of the information sought to be protected shall be held in abeyance to allow LiTel and LCI to supplement their petition with a statement identifying the competitors who are likely to benefit from the information and stating with specificity their reasons for believing that disclosure of the information sought to be protected will cause them substantial competitive injury.

2. If such statement is not filed within 10 days, the petition for confidentiality shall, without further Orders herein, be denied.

Done at Frankfort, Kentucky this 9th day of November, 1989.

PUBLIC SERVICE COMMISSION


For the Commission

ATTEST:

Executive Director